

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JAMES SEABA and  
CORY PHILLIPS,

Plaintiffs,

v.

MESOSYSTEMS TECHNOLOGY, INC.,

Defendant.

Civ. No. 02-103 LH/WWD

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**PLAINTIFFS' RESPONSE TO DEFENDANT'S  
SUPPLEMENT TO ITS REPLY MEMORANDUM  
IN SUPPORT OF MOTION TO DISMISS**

Plaintiffs, James Seaba and Cory Phillips, pursuant to the Court's Order of July 3, 2002, submit this Response to Defendant's Supplement to its Reply Memorandum in Support of Motion to Dismiss. Attached hereto as Exhibit A is a recent article from the New Mexico Business Weekly in which Defendant, MesoSystems Technology, Inc. states that it has requested \$9 million in industrial revenue bonds from the City of Albuquerque, "as it makes plans to move its headquarters to Albuquerque from Kennewick, Wash., and hire nearly 150 new employees." In light of these developments, Defendant's argument that the State of Washington is a more convenient forum in which to try this case, is no longer valid.

For the reasons set forth in Plaintiffs' Response in Opposition to Defendant's Motion to Dismiss or Transfer for Improper Venue, and in light of Defendant's recently announced decision to relocate to Albuquerque, New Mexico, Defendant's Motion to Dismiss or Transfer for Improper Venue, should be denied.

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Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

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WE HEREBY CERTIFY that a true  
and correct copy of the foregoing pleading  
was mailed to all counsel of record this  
5<sup>th</sup> day of August, 2002.

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: Angelo J. Artuso  
Angelo J. Artuso

**THE EXHIBITS ATTACHED TO  
THIS PLEADING ARE TOO  
VOLUMINOUS TO SCAN. SAID  
EXHIBITS ARE ATTACHED TO THE  
ORIGINAL PLEADING IN THE CASE  
FILE WHICH IS LOCATED IN THE  
RECORDS DEPARTMENT, U.S.  
DISTRICT COURT CLERK'S  
OFFICE...**